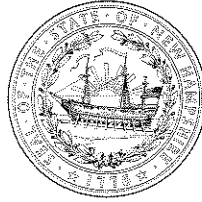


**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE  
ATTORNEY GENERAL



MICHAEL A. DELANEY  
DEPUTY ATTORNEY GENERAL

September 12, 2005

Section 5 Submission

Chief, Voting Section  
Civil Rights Division  
Room 7254 – NWB  
Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act for:

New Hampshire Revised Statute Annotated ("RSA") 654:33, a STATUTE related to notice for hearings on alterations to party registrations, most recently amended by Laws of 1990 Chapter 119 and previously amended by the chapters cited below.

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973 (c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits RSA 654:33, a STATUTE related to notice for hearings on alterations to party registrations, most recently amended by Laws of 1990 Chapter 119 and previously amended by the chapters cited below.

SUBMISSION:

In accordance with 28 C.F.R. § 51.27, the submission is as follows:

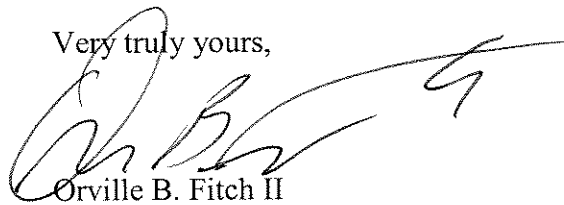
- a) Chapter 119 (1990) amending RSA 654:33 is attached (Exhibit 654:33 A).
- b) The starting point for analysis, previously precleared, Chapter 436 (1979) recodifying RSA 56:036 as RSA 654:33 is attached (Exhibit 654:33 B).
- c) The changes made by amendments to RSA 654:33 are as follows:

1. Chapter 119 (1990) makes the following changes:
  - a. Replaces the phrase “...*in 2 or more public places in such town or ward...*” with “...*at the office of the town or city clerk or at the town hall...*”
  - b. Insert the phrase “...*session or...*” following the phrase “...*and place of the ...*”
  - c. Replaces the word “...*checklists...*” with “...*checklist...*”
- d) This submission is made by: Senior Assistant Attorney General  
Orville B. Fitch II, 33 Capitol Street, Concord, New Hampshire 03301,  
Phone: (603) 271-1238.
- e) The submitting authority is New Hampshire Attorney General, Kelly  
A. Ayotte for the State of New Hampshire.
- f) Not applicable.
- g) The changes for which pre-clearance is sought were made by a  
decision of the New Hampshire General Court (Legislature).
- h) In accordance with Amendment X of the U.S. Constitution, the New  
Hampshire General Court, the State’s legislature, acting pursuant to  
the New Hampshire Constitution Part Second, Article 2, granting  
supreme legislative power within the state to the House and Senate,  
who with right to negate each other are granted power to make law  
through Part Second, Article 5. Additional authority regarding election  
law is vested in Part First, Article 11.  
  
The legislature through a bicameral process passed law to create  
Chapter 119 (Exhibit 654:33 A). The bill was signed into law (by the  
Governor) on April 19, 1990, pursuant to New Hampshire Constitution  
Part Second, Article 44.
- i) Adoption dates:
  1. Chapter 119 (1990) adopted April 19, 1990
- j) Effective dates:
  1. Chapter 119 (1990) effective June 18, 1990
- k) The changes have been enforced.

- l) The changes affect the entire State of New Hampshire.
- m) The purpose for the changes are as follows:
  - 1. The purpose of the Chapter 119 (1990) changes are to clarify where notice of the sessions required by this statute must be posted and to make minor grammatical corrections
- n) These changes do not negatively target any protected class under section 5 of the Voting Rights Act of 1965. *42 U.S.C. 1973c*. They are expected to have neutral impact and do not meet the test of retrogression defined in *Reno v. Bossier Parish Sch. Bd*, 520 U.S. 471, 478 (1997). “(T)he ability of minority groups...to elect their choices to office” will not be diminished. *Beer v. U.S.*, 425 U.S. 130,141 (1976).
- o) None known.
- p) RSA 654:33 was precleared through 1979 on June 22, 2004 by D.O.J. file numbers 2004-2563, 2004-2581 and 2004-2582. A copy of this preclearance is attached as Exhibit 654:33 C. This submission seeks preclearance of all subsequent changes.
- q) Not applicable as this is not a redistricting plan.
- r) Exhibit 654:33 D is a copy of a Press Release of this submission, its availability, and inviting comment to federal Department of Justice.

I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

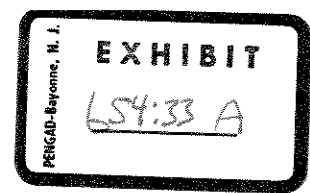
Very truly yours,



Orville B. Fitch II  
Senior Assistant Attorney General  
Civil Bureau  
(603) 271-1238  
[bud.fitch@doj.nh.gov](mailto:bud.fitch@doj.nh.gov)

22march89.....2230h

1/11/90-4325s



**1989 SESSION 1424B**

89-1040

10

**HOUSE BILL AMENDED BY THE SENATE**

HOUSE BILL NO. 562-FN

INTRODUCED BY: Rep. Flanagan of Rockingham Dist. 8; Rep. Holden of  
Hillsborough Dist. 9

REFERRED TO: Constitutional and Statutory Revision

AN ACT making technical changes in the election laws.

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**AMENDED ANALYSIS**

This bill amends the election laws relative to:

- I. The information on voter registration forms.
- II. The information used on checklists and checklist procedures.
- III. Posting and the availability of checklists.
- IV. The time for holding sessions to correct the checklist and the procedures used during those sessions.
- V. Certifying and verifying checklists.
- VI. Placing the name of substitute candidates on the ballot.
- VII. Records of absentee ballots.
- VIII. Posting general election warrants.
- IX. Appointing assistant election officials.
- X. Disqualifying election officials.

6 Checklist Certification. Amend RSA 654:29, I to read as follows:

I. The supervisors shall subscribe and make oath to the following certificate on [the back of] the checklist, as corrected by them: We, the supervisors of the checklist of the town (or ward) of .....

do solemnly swear that, according to our best knowledge, the within list contains .....  
(number) names of those persons only who are, by actual domicile, legal voters in said town (or ward).

7 Posting Checklist. Amend RSA 654:33 to read as follows:

**654:33 Posting Copies; Notice of Sessions.** The supervisors shall post copies of the checklist, showing the persons in the town or ward entitled

to vote, with their party registration, so far as such registration has been made, [in 2 or more public places in such town or ward] **at the office of the town or city clerk or at the town hall** at least 10 days prior to any session provided for in RSA 654:32; and notice of the date, hour and place of the **session or sessions** to revise such registration shall be given upon such [checklists] **checklist**.

8 Session for Verification of Checklist. Amend RSA 654:39, II to read as follows:

II. Between April 1 and August 1 of 1981 and thereafter in each year ending with a one, the supervisors shall advertise **and post** notice of their sessions at least twice in a newspaper of general circulation [in] **and at the office of the town or city clerk or at the town hall** and hold sufficient sessions for verification of the checklist as in their opinion will enable all eligible voters in said town or ward to appear before them and register or reregister as the case may be[; provided, that in the city of Manchester, the period shall be between February 1 and August 1]. Whenever a person is reregistered, his party designation, if any, on the checklist undergoing revision shall not be changed except as provided in RSA 654:34.

9 Registered Voter for Checklist Verification Purposes. RSA 654:39, IV is repealed and reenacted to read as follows:

IV. For the purpose of this section, a person shall be deemed reregistered and need not appear before the supervisors if:

- (a) The person voted in either of the 2 previous state general elections immediately preceding a 10-year verification; or
- (b) The person voted in the annual town election in the year of a 10-year verification or, if in a city, the most recent regular city election held prior to the verification.

10 Pastors and Substitute Candidates. Amend RSA 656:21 to read as follows:

**656:21 Pastors; Substitute Candidates.** In the event that a candidate dies or is disqualified as provided in RSA 655:38 or 655:39, the name of the substitute candidate shall be printed on the state general election ballot. If the state general election ballots have already been prepared and time will permit, the secretary of state may authorize adhesive slips or pasters with the name of the substitute candidate thereon to be printed and sent to the town or city clerks representing the territory wherein the deceased or disqualified candidate was to be voted for. Such paster shall be

**654:28 Procedure.** The supervisors of the checklist shall hear all applications for a correction of the checklist and the evidence submitted thereon and shall correct it according to their best knowledge so that it contains only the names of those persons qualified to vote at said election. The names of all persons not qualified to vote at the time of any session, but who shall clearly be qualified to vote on election day, may be added to the checklist at that session. No additions or corrections shall be made after 6:00 p.m. Saturday 10 days prior to election day, except as provided in RSA 659:12. The additions and corrections resulting from such sessions shall be made to the previously posted checklist on or before midnight on the succeeding Wednesday either by additions or corrections to said checklist or by posting a new corrected checklist. Notice of such additions or corrections to the checklist shall also be given to the town or city clerk.

#### **654:29 Certification of List.**

I. The supervisors shall subscribe and make oath to the following certificate on the back of the checklist, as corrected by them: We, the supervisors of the checklist of the town (or ward) of \_\_\_\_\_ do solemnly swear that, according to our best knowledge, the within list contains \_\_\_\_\_ (number) names of those persons only who are, by actual domicile, legal voters in said town (or ward).

II. They shall file a true copy of the corrected list, attested by them, with the town clerk. The checklists so corrected shall be used at the election. Any person who swears falsely in making such certificate shall be guilty of perjury.

**654:30 Correcting Data Files.** After each state election, the supervisors shall use the checklist from such election to correct the standard data files to conform to any changes which are evident from the checklist. The standard data file so maintained and corrected shall be a public record open to inspection at reasonable times and as otherwise required by law.

**654:31 Availability of Checklist.** The checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. After each state election, the supervisors shall furnish to any person requesting the same a copy of the checklist which was used in said election without the voting marks thereon and with or without party designations at the discretion of said supervisors. The supervisors may charge a reasonable fee for these copies for the use of the town or city.

### **Checklists: Additional Provisions for Primary Elections**

**654:32 Hearings on Alterations to Party Registration.** Before each state or presidential primary election, the supervisors of the checklist shall be in session for the change of party registration of legal voters. The sessions shall be on 2 days, at least, and at such other times as they deem necessary, and shall not be closer in time to the primary than the day immediately prior to the first day for the filing of a declaration of candidacy.

**654:33 Posting Copies; Notice of Sessions.** The supervisors shall post copies of the checklist, showing the persons in the town or ward entitled to vote, with their party registration, so far as such registration has been made, in 2 or more public places in such town or ward at least 10 days prior to such session; and notice of the date, hour and place of the sessions to revise such registration shall be given upon such checklists.

**654:34 Change of Registration.**

I. Change of registration of a voter whose party membership has been previously registered.

(a) Any legal voter whose party membership has been registered may change such registration by appearing in person before the supervisors of the checklist for his town or ward at any session provided for in RSA 654:32 and stating to them under oath or affirmation, that:

(1) He intends to affiliate with and generally supports the candidates of the party with which he offers to register, in which case he shall be registered as a member of such party; or

(2) He does not wish to be registered as a member of any party, in which case his party designation shall be removed from the checklist.

(b) He may also change such registration at any primary, upon making oath or affirmation to the same effect, but he shall not be permitted in such case to vote the ballot of any party at such primary.

II. Change of registration of a voter whose party membership has not been previously registered.

(a) Any legal voter who has not been registered as a member of any party may register as a member of the party of his choice by appearing before the supervisors of the checklist for his town or ward at any session provided for in RSA 654:27 and stating to them, under oath or affirmation, if required, that he intends to affiliate with and generally supports the candidates of the party with which he offers to register, in which case he shall be registered as a member of such party.

(b) He may also register as a member of a party at any primary by requesting and voting the ballot of the party of his choice and if challenged, he shall take an oath or affirmation to the effect that he intends to affiliate with and generally supports the candidates of that party.

III. Notwithstanding any provision of paragraphs I and II to the contrary, no person who has voted in a primary may thereafter on the day of said primary change his party registration or change his registration so that he is registered as a member of no party.

**654:35 Corrected List.** After a pre-primary session, the supervisors shall prepare a corrected checklist showing the registration of party members as corrected by them; and such checklist with the corrections that shall have been made in the sessions provided for in RSA 654:27 through 654:32 shall be used at the primary.

### **Periodic Maintenance and Verification of Checklists**

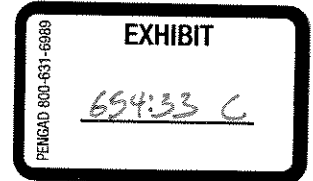
**654:36 Reports of Transfer.** If the supervisors of the checklist have received a notice of transfer from another board of supervisors of the checklist in the state of New Hampshire that a voter whose name is on the checklist has been added to the checklist of some other town or city, they shall strike that name from the checklist at the next session for the correction of the checklist. They shall retain the notice as proof of their reasoning in striking that name from the checklist.

**654:37 Reports of Death.** Whenever there is filed in his office notice of the death of any person or persons of the age of 18 years or over, town or city clerk shall notify the supervisors of the checklist of said town or city, and submit a notice of same to the supervisors at their next regular session. Upon receipt of such notice, the supervisors shall examine the checklist to determine if the name of said deceased person appears thereon, it shall be removed to the next election. Any supervisor who shall neglect or refuse to remove the name of such deceased voter from the checklist after receiving notice from the town or city clerk shall be guilty of a violation.



U.S. Department of Justice

Civil Rights Division



JDR:RPL:SMC:jdh  
DJ 166-012-3  
2004-2563  
2004-2581  
2004-2582

*Voting Section - NWB  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530*

June 22, 2004

Orville B. Fitch II, Esq.  
Assistant Attorney General  
Civil Bureau  
Department of Justice  
33 Capitol Street  
Concord, New Hampshire 03301-6397

Dear Mr. Fitch:

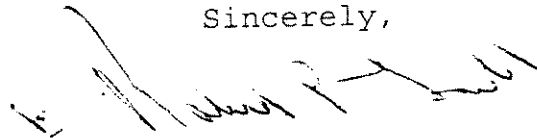
This refers to Session Law Chapter 436 (HB 575) (1979), which recodifies the election laws of the State of New Hampshire; Session Law Chapter 266 (HB 577) (2003), which implements the Help America Vote Act of 2002 (HAVA), 42 U.S.C. 15301-15545; and the adoption of formal administrative procedures for the resolution of election law complaints, including complaints filed under Title III of HAVA, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on June 7, 2004.

The Attorney General does not interpose any objection to the specified changes. Regarding Session Law Chapter 266, we note that the act specifically amends the following provisions of the State's election laws: RSA 655:19, II (Chapter 387 (1991)) (to provide for the deposit of certain candidate filing fees collected by the secretary of state into the election fund); RSA 655:19-c (Chapter 387 (1991)) (to provide for the deposit of any administrative assessments paid to the secretary of state into the election fund); RSA 664:3, I (Chapter 351 (1997)) (to provide for the deposit of political committee registration fees paid to the secretary of state into the election fund); RSA 664:21, II (Chapter 351 (1997)) (to provide for the deposit of any administrative fines for violations of the State's campaign finance laws into the election fund); and RSA 665:7 (Chapter 436 (1979)) (to authorize the Ballot Law Commission to hear and resolve complaints alleging violations of Title III of HAVA, as specified).

We note also that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Session Law Chapter 266 includes provisions that are enabling in nature. Therefore, the State is not relieved of its responsibility to seek Section 5 preclearance of any changes affecting voting proposed to be implemented pursuant to this legislation (e.g., creation of a centralized statewide voter registration database by the secretary of state and guidelines issued by the secretary of state implementing the database). See 28 C.F.R. 51.15.

Sincerely,

A handwritten signature in dark ink, appearing to read "Joseph D. Rich", is written over a horizontal line.

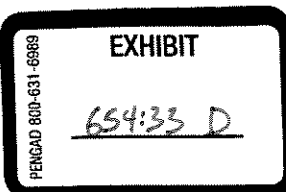
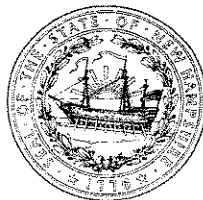
Joseph D. Rich  
Chief, Voting Section



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KELLY A. AYOTTE  
ATTORNEY GENERAL



MICHAEL A. DELANEY  
DEPUTY ATTORNEY GENERAL

**News Release**

RELEASED BY: Attorney General Kelly A. Ayotte

SUBJECT: Voting Rights Act – Submission of a request for preclearance of changes to New Hampshire Voting laws and procedures

DATE: June 10, 2005

RELEASE TIME: Immediate

Attorney General Kelly A. Ayotte announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Ayotte and the federal Department of Justice invite persons interested in this submission to submit comments and information, in writing or by telephone, to the Voting Section of the Federal Department of Justice, Civil Rights Division, at the earliest possible date to ensure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7354 – NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530. The envelope and first page should be marked "Comment under section 5." Additional information on the Voting Rights Act and the preclearance process can be obtained at the web site of the Federal Department of Justice at:

<http://www.usdoj.gov/crt/voting/index.htm>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>  
New Hampshire Toll Free 1-866-8868-3703  
or 1-866-VOTER03  
[electionlaw@doj.nh.gov](mailto:electionlaw@doj.nh.gov)